

FINAL STATEMENT OF REASONS:

This action amends provisions governing the Early Intervention Program (EIP), within the California Department of Corrections (Department). Title 15, Division 3, Section 3426 is in accordance with Labor Code (LC) 3214. The EIP provides appropriate and timely information regarding the assessment and processing of work-related injury/illness claims. Additionally, the EIP seeks to improve and streamline workers' compensation claims filed for all departmental employees and reduce costs associated with the delivery of workers' compensation.

Pursuant to LC 3214, the Director or designee, in conjunction with one member from Authorized Employee Representative Associations (AERA) representing individual bargaining units, shall perform the task of selecting the Early Intervention Selection Committee (EISC). The EISC consists of an equal number of departmental staff representatives who shall be appointed by the Director or designee, and bargaining unit representatives who bargain with the Department who are chosen on behalf of the AERA. Section 3426 was set up to establish the selection of the EISC. This regulation provides that the Department and AERA shall have equal representation within the EISC regarding the EIP. This is necessary to ensure that an equal partnership exists between the Department and all employee bargaining units being represented by a AERA ensuring unbiased and fair EIP decisions.

The Return-To-Work Coordinator (RTWC) is a Rank and File State employee represented by the California State Employees Association (CSEA) Bargaining Unit 1. In existing regulations, the RTWC is a voting member of the EISC. This technically gives CSEA, Bargaining Unit 1, two votes in the EISC and creates a potential for "unequal representation" with the AERA.

These proposed regulations are necessary due to the fact that the Department is unable to provide appropriate and timely information regarding EIP because of its inability to appoint Early Intervention Counselors (EIC) or Agreed Medical Panel Doctors (AMPD), pursuant to LC 3214, because of the "unequal representation" issue.

Due to the EISC's inability to meet and vote to select new EICs or AMPDs, injured/ill employees have been forced to choose from a list of EICs and AMPDs that is over three years old. This outdated and inadequate list contains names of EICs and AMPDs that no longer offer their EIP services to the Department.

These proposed regulations make the RTWC the non-voting chairperson of the EISC. The Chairperson shall not be a voting member of the EISC. This will ensure that each AERA and the Department have equal and balanced representation at the EISC meetings.

Subsection 3426(a) through (d)(1) are unchanged.

Subsection 3426(d)(2) is amended to state that a non-voting chairperson shall be a member of the EISC. It is necessary that the chairperson of the EISC only chair the EISC meeting and not participate in the voting because this will aid in unbiased and fair EIP decisions and equal representation.

Subsection 3426(d)(3) through (4) is unchanged.

Subsection 3426(d)(5) is amended to state that the RTWC is the chairperson. The RTWC is a Rank and File State employee represented by the CSEA, Bargaining Unit 1. Prior to this proposed amendment, the RTWC was a voting member of the EISC. This gave CSEA two

votes in the EISC and created an unequal representation issue with the Employee Representative Associations (Unions). Therefore it is necessary to have the chairperson of the EISC be a non-voting member.

Subsections 3426(e) through (i) are unchanged.

Subsection 3426(j)(2) is amended to make the RTWC a non-voting chairperson of the EISC. This is necessary to ensure equal representation.

ASSESSMENTS, MANDATES AND FISCAL IMPACT:

This action will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

The Department has determined this action imposes no mandates on local agencies or school districts; no fiscal impact on State or local government, or Federal funding to the State, or private persons. It has also determined that this action does not affect small businesses nor have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states, because they are not affected by the internal management of State prisons; or on housing costs; and no costs or reimbursements to any local agency or school district within the meaning of Government Code Section 17561.

DETERMINATION:

The Department has determined that no alternative considered would be more effective in carrying out the purpose of this action or would be as effective and less burdensome to affected persons.

PUBLIC COMMENTS:

Public Hearing: Held March 30, 2004 at 9:00 a.m. to 10:00 a.m.

ORAL COMMENTS:

No one commented at the Public Hearing.

WRITTEN COMMENTS:

No written comments were received during the 45-day comment period.